

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
ATHENS DIVISION**

STEVE SIMONDS,

Plaintiff,

v.

UNIVERSITY OF GEORGIA
LAW SCHOOL, *et al.*,

Defendants.

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Case No. 3:23-cv-7-CAR-MSH

ORDER AND RECOMMENDATION OF DISMISSAL

On January 13, 2023, Plaintiff proceeding *pro se*, brought the above-styled action pursuant to 42 U.S.C. § 1983. Compl., ECF No. 1. Following the denial of Plaintiff's motions for leave to proceed *in forma pauperis* ("IFP"), Plaintiff paid the filing fee and summonses were issued as to three Defendants. Mots. for Leave to Proceed, ECF Nos. 2, 5; Order, June 29, 2023, ECF No. 10; Clerk's Entry, July 27, 2023; Summons, ECF No. 15. The 90-day period for service under Rule 4(m) of the Federal Rules of Civil Procedure expired. Thereafter, the Court filed an Order to Show Cause on November 7, 2023, ordering Plaintiff to respond within fourteen days as to why this action should not be dismissed for failure to comply with Rule 4(m) (ECF No. 19). Plaintiff failed to respond to the Court's Order or otherwise provide any proof of service on any Defendant or good cause for his failure to serve Defendants. Neither has Plaintiff moved for an extension of time to serve Defendants.

The Court has considered “whether any . . . circumstances warrant an extension of time based on the facts of [this] case” and finds no factors warranting an extension of time. *Lepone-Dempsey v. Carroll Cnty. Comm’rs*, 476 F.3d 1277, 1281-82 (11th Cir. 2007). In particular, Plaintiff alleges the acts underlying his claim occurred in March 2017, *see* Am. Compl. 4, ECF No. 4, and as a result, the statute of limitations appears to have run prior to the time he filed his original complaint, although Plaintiff does assert an alleged continuing violation. Accordingly, it is **RECOMMENDED** that Plaintiff’s action be **DISMISSED WITHOUT PREJUDICE** under Rule 4(m).¹

Plaintiff is hereby notified that, Pursuant to 28 U.S.C. § 636(b)(1), a party may serve and file written objections to any recommendation with the United States District Judge to whom this case is assigned **WITHIN FOURTEEN (14) DAYS** after being served with a copy of this Recommendation. A party may seek an extension of time in which to file written objections, provided a request for an extension is filed prior to the deadline for filing written objections. Any objection is limited in length to **TWENTY (20) PAGES**. *See* M.D. Ga. L.R. 7.4. Failure to object in accordance with the provisions of § 636(b)(1) waives the right to challenge on appeal the district judge’s order based on factual and legal conclusions to which no objection was timely made. *See* 11th Cir. R. 3-1.

SO RECOMMENDED this 8th day of December, 2023.

/s/ Stephen Hyles
UNITED STATES MAGISTRATE JUDGE

¹ Plaintiff filed motions seeking to consent to the magistrate judge entering final judgment and to consolidate this action with other actions filed by him (ECF No. 18). Those motions (ECF No. 18) are **DENIED as moot**.